

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANN OWCA,

Plaintiff

v.

MOJACK DISTRIBUTERS, LLC,

Defendant

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:

: CIVIL ACTION NO.

: JURY TRIAL DEMANDED

COMPLAINT

The Plaintiff, **Ann Owca**, by and through her attorneys, **DOUGHERTY, LEVENTHAL & PRICE, L.L.P.**, complains against the above-named Defendant as follows:

BACKGROUND INFORMATION

1. The Plaintiff, Ann Owca, is a citizen of the Commonwealth of Pennsylvania, residing at 130 Reliance Drive, Wilkes-Barre, Luzerne County, PA 18702.
2. The Defendant is a corporation that was incorporated within the United States, but not in the Commonwealth of Pennsylvania, maintaining a principal place of business at 3535 North Rock Road, Suite 300, Wichita, KS 67226.

JURISDICTION

3. Jurisdiction is based on 28 U.S.C. §1332(a)(1) in that Plaintiff's claims involve a controversy between an entity and/or citizens of different states, and the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00).

THE ACCIDENT OF APRIL 28, 2018

4. On April 23, 2018, Plaintiff purchased a MoJack HDL Mower Lift, serial no.

20150200014, from The Home Depot Store located at 41 Spring Street, Wilkes-Barre, Luzerne County, PA 18702.

5. Prior to April 23, 2018, the Defendant manufactured and/or distributed and/or sold to The Home Depot the MoJack HDL Mower Lift that Plaintiff purchased.

6. On Saturday morning, April 28, 2018, as Plaintiff was using the MoJack HDL Mower Lift at her residence, part of her right hand was caught and crushed in a nip point between the locking bar teeth and the product frame, causing severe and permanent crush injury to the tops of her left index and middle fingers

COUNT I

STRICT PRODUCT LIABILITY RESTATEMENT (SECOND) OF TORTS §402A

7. The MoJack HDL Mower Lift manufactured and/or distributed and/or sold by the Defendant was defective under a risk/utility analysis. Specifically, the MoJack HDL Mower Lift contained a nip point that presented a threat of serious injury to persons working with or around the MoJack HDL Mower Lift. The Defendant could have, and should have, easily and inexpensively eliminated and/or guarded against this nip point, removing the risk of serious injury to persons using the MoJack HDL Mower Lift.

8. As a result of the Defendant's manufacture and distribution of a defective product, the Plaintiff required extensive medical treatment for her injuries. She incurred medical bills for her medical treatment, and she may require additional medical care for an indefinite period of time into the future.

9. As a result of the Defendant's manufacture and distribution of a defective product, the Plaintiff endured physical pain and suffering and mental anguish, and she will continue to

endure physical pain and suffering and mental anguish for the remainder of her lifetime.

10. As a result of the Defendant's manufacture and distribution of a defective product, the Plaintiff suffered embarrassment and humiliation, and she will continue to suffer embarrassment and humiliation for an indefinite period of time into the future.

11. As a result of the Defendant's manufacture and distribution of a defective product, the Plaintiff suffered a loss of ability to enjoy the pleasures of her life, and she will suffer a loss of ability to enjoy the pleasures of her life for an indefinite period of time into the future.

12. As a result of the Defendant's manufacture and distribution of a defective product, the Plaintiff suffered permanent physical disfigurement of and scarring on her left hand, and she sustained a permanent loss of function, loss of sensation and loss of range of motion in her left hand, specifically with regard to the top portions of her left index and middle fingers.

WHEREFORE, the Plaintiff respectfully requests that the Court enter judgment in her favor and against the Defendant in an amount in excess of seventy-five thousand dollars (\$75,000.00), plus costs of suit and delay damages pursuant to Pennsylvania Rule of Civil Procedure 238.

DOUGHERTY, LEVENTHAL & PRICE L.L.P.

BY: JAMES M. WETTER, ESQ.
Attorney I.D. #46847

**459 Wyoming Avenue
Kingston, PA 18704
(570) 288-1427**

Attorneys for the PLAINTIFF

VERIFICATION

I, **ANN OWCA**, the named Plaintiff in this action, state that the facts set forth in the foregoing **COMPLAINT** are based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language of the Complaint is that of counsel and not of the undersigned. The undersigned verifies that he has read the attached Pleading and that it is true and correct to the best of his information and belief. The content of the **COMPLAINT** was drafted by counsel and the undersigned has relied upon counsel in making this Verification. This Verification is made subject to the penalties relating to unsworn falsification to authorities.

1-22-19

DATED

Ann Owca

ANN OWCA